

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 24, 2013
AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 326

Introduced by Senator Beall

February 19, 2013

An act to amend Section 626.81 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Beall. Sex offenders.

Existing law makes it a misdemeanor for any person who is required to register as a sex offender to come into any school building or upon any school ground without lawful business and written permission from the chief administrative official of the school.

This bill would require that the written permission indicate the date or date range and time for which permission is granted. The bill would ~~authorize, if the chief administrative official of a school elects to grant permission only after~~ *permission to a person who is not the parent or guardian with legal custody of a child who attends that school, require* the chief administrative official ~~has consulted~~ *to consult* with the person's registering authority, as defined. The bill would require the registering authority to disclose to the chief administrative official specified information regarding the person. The bill would require the chief administrative official, in cases in which he or she has determined that he or she will grant permission to the person and ~~if the registering authority has concluded that the person has a moderate to high risk of~~

reoffending, to notify the parent or guardian of children attending the school of that fact, as specified.

By changing the definition of a crime, and by imposing new duties on law enforcement agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 626.81 of the Penal Code is amended to
2 read:

3 626.81. (a) A person who is required to register as a sex
4 offender pursuant to Section 290, who comes into any school
5 building or upon any school ground without lawful business
6 thereon and written permission indicating the date or dates and
7 times for which permission has been granted from the chief
8 administrative official of that school, is guilty of a misdemeanor.
9 ~~If the chief administrative official of the school, in his or her~~
10 ~~discretion, elects to consider whether to grant permission, he or~~
11 ~~she shall comply with the requirements set forth in subdivision~~
12 ~~(b).~~

13 (b) (1) *If a person who requests permission to come into a*
14 *school building or upon the school grounds is not a parent or*
15 *guardian with legal custody of a pupil who attends that school*
16 *and the chief administrative official of the school, in his or her*
17 *discretion, elects to consider whether to grant permission to that*
18 *person, he or she shall comply with the requirements set forth in*
19 *this subdivision.*

20 (2) The chief administrative official of a school may grant
21 permission to a person who is ~~required to register as a sex offender~~

1 ~~pursuant to Section 290~~ *subject to this subdivision* to come into
2 any school building or upon any school ground only after the chief
3 administrative official has consulted with the person's registering
4 authority.

5 ~~(2)~~

6 (3) The registering authority shall disclose to the chief
7 administrative official, during the consultation required by
8 paragraph~~(1)~~ (2), the following information:

9 (A) The person's most recent static State Authorized Risk
10 Assessment Tool for Sex Offenders (SARATSO) assessment score,
11 obtained pursuant to Section 290.06, and most recent SARATSO
12 dynamic tool and SARATSO future violence tool assessment
13 scores, obtained pursuant to Section 290.09, if those scores are
14 available from the California Sex and Arson Registry.

15 (B) A brief description of the facts underlying the offense or
16 offenses for which the person is required to register, if that
17 information is available from the California Sex and Arson
18 Registry, police reports, or presentencing reports.

19 (C) Any facts known to the registering authority that indicate
20 the person poses a current risk to children, including, but not
21 limited to, the presence of risk factors associated with committing
22 sexual or violent offenses.

23 (D) The registering authorities' assessment, based on the
24 information identified in subparagraphs (A) to (C), inclusive, of
25 the risk that the person will reoffend.

26 ~~(3)~~

27 (4) (A) If the chief administrative official determines after the
28 consultation required by paragraph~~(1)~~ (2) that he or she will grant
29 the person permission to come into a school building or upon
30 school grounds and the registering authority has concluded that
31 the person poses a moderate to high risk of reoffending, the chief
32 administrative official may grant the person permission, provided
33 that, notwithstanding subdivisions (a) and (c) of Section 290.45,
34 at least 14 days prior to the first date for which permission has
35 been granted, the chief administrative official notifies or causes
36 to be notified the parent or guardian of each child attending the
37 school that a person who is required to register as a sex offender
38 pursuant to Section 290 has been granted permission to come into
39 a school building or upon school grounds, the date or dates and
40 times for which permission has been granted, and his or her right

1 to obtain information regarding the person from a designated law
2 enforcement entity pursuant to Section 290.45. The notice required
3 by this subparagraph shall be provided by one of the methods
4 identified in Section 48981 of the Education Code.

5 (B) Any chief administrative official or school employee who
6 in good faith disseminates the notification and information as
7 required by subparagraph (A) shall be immune from civil liability
8 for action taken in accordance with that provision.

9 *(5) For purposes of this subdivision, the “registering authority”*
10 *is the law enforcement agency or agencies with which a person*
11 *described in paragraph (1) is currently required to register*
12 *pursuant to Section 290.*

13 (c) Punishment for a violation of this section shall be as follows:

14 (1) Upon a first conviction by a fine of not exceeding five
15 hundred dollars (\$500), by imprisonment in a county jail for a
16 period of not more than six months, or by both the fine and
17 imprisonment.

18 (2) If the defendant has been previously convicted once of a
19 violation of this section, by imprisonment in a county jail for a
20 period of not less than 10 days or more than six months, or by both
21 imprisonment and a fine of not exceeding five hundred dollars
22 (\$500), and shall not be released on probation, parole, or any other
23 basis until he or she has served not less than 10 days.

24 (3) If the defendant has been previously convicted two or more
25 times of a violation of this section, by imprisonment in a county
26 jail for a period of not less than 90 days or more than six months,
27 or by both imprisonment and a fine of not exceeding five hundred
28 dollars (\$500), and shall not be released on probation, parole, or
29 any other basis until he or she has served not less than 90 days.

30 (d) Nothing in this section shall preclude or prohibit prosecution
31 under any other provision of law.

32 ~~(e) For purposes of this section, the “registering authority” is~~
33 ~~the law enforcement agency or agencies with which a person~~
34 ~~described in subdivision (a) is currently required to register~~
35 ~~pursuant to Section 290.~~

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution for certain
38 costs that may be incurred by a local agency or school district
39 because, in that regard, this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty for a crime

1 or infraction, within the meaning of Section 17556 of the
2 Government Code, or changes the definition of a crime within the
3 meaning of Section 6 of Article XIII B of the California
4 Constitution.

5 However, if the Commission on State Mandates determines that
6 this act contains other costs mandated by the state, reimbursement
7 to local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

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